(1) The registered swap data repository is required to adopt and implement adequate "firewalls" or controls to protect the reported swap data required to be maintained under § 49.12 of this part and Section 21(b) of the Act from any improper commercial use.

(2) *Exception.* (A) The swap dealer, counterparty or any other registered entity that submits the swap data maintained by the registered swap data repository may permit the commercial or business use of that data by express written consent.

(B) Swap data repositories shall not as a condition of the reporting of swap transaction data require a reporting party to consent to the use of any reported data for commercial or business purposes.

(3) Swap data repositories responsible for the public dissemination of real-time swap data shall not make commercial use of such data prior to its public dissemination.

[76 FR 54575, Sept. 1, 2011, as amended at 79 FR 16675, Mar. 26, 2014]

§ 49.18 Confidentiality and indemnification agreement.

(a) *Purpose.* This section sets forth the obligations of registered swap data repositories to execute a "Confidentiality and Indemnification Agreement" in connection with providing access to swap data to certain domestic and foreign regulators.

(b) *Confidentiality and indemnification agreement.* Prior to the registered swap data repository providing access to the swap data with any Appropriate Domestic Regulator or Appropriate Foreign Regulator as defined in § 49.17(b), the swap data repository shall receive a written agreement from each such entity stating that the entity shall abide by the confidentiality requirements described in Section 8 of the Act relating to the swap data that is provided; and each such entity shall agree to indemnify the swap data repository and the Commission for any expenses arising from litigation relating to the information provided under Section 8 of the Act.

(c) *Certain appropriate domestic and foreign regulators with regulatory responsibility over a swap data repository.* The requirements set forth above in paragraph (b) shall not apply to certain Appropriate Domestic and Foreign Regulators with regulatory responsibility over a swap data repository as described in § 49.17(d)(2) and (3). The swap data repository and such Appropriate Domestic or Foreign Regulator in each case is required to comply with Section 8 of the Act and any other relevant statutory confidentiality provisions.

§ 49.19 Core principles applicable to registered swap data repositories.

(a) *Compliance with core principles.* To be registered, and maintain registration, a swap data repository shall comply with the core principles as described in this paragraph. Unless otherwise determined by the Commission by rule or regulation, a swap data repository shall have reasonable discretion in establishing the manner in which the swap data repository complies with the core principles described in this paragraph.

(b) *Antitrust considerations (Core Principle 1).* Unless necessary or appropriate to achieve the purposes of the Act, a registered swap data repository shall avoid adopting any rule or taking any action that results in any unreasonable restraint of trade; or imposing any material anticompetitive burden on trading, clearing or reporting swaps.

(c) *Governance arrangements (Core Principle 2).* Registered swap data repositories shall establish governance arrangements as set forth in § 49.20.

(d) *Conflicts of interest (Core Principle 3).* Registered swap data repositories shall manage and minimize conflicts of interest and establish processes for resolving such conflicts of interest as set forth in § 49.21.

(e) *Additional duties (Core Principle 4).* Registered swap data repositories shall also comply with the following additional duties:

(1) *Financial resources.* Registered swap data repositories shall maintain sufficient financial resources as set forth in § 49.25;

(2) *Disclosure requirements of registered swap data repositories.* Registered swap data repositories shall furnish an appropriate disclosure document setting forth the risks and costs of swap data repository services as detailed in § 49.26; and